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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,234	02/01/2002	Jean-Louis H. Gueret	05725.1017-00	8084

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EXAMINER

LE, HUYEN D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Continuation of Disposition of Claims: Claims pending in the application are 1,3-9,11-83,85-108,110,112-116,118-121,123-128,130-133,135-156,158-182,184-192,194-199,201-204 and 206-214.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 18-21,52-59,68,69,92-95,124-128,130,131,142,143,165-168,195-199,201,202,213 and 214.

Continuation of Disposition of Claims: Claims rejected are 1,3-9,11-17,22-51,60-67,70-83,85-91,96-108,110,112-116,118-121,123,132,133,135-141,144-156,158-164,169-182,184-192,194,203,204 and 206-212.

Office Action Summary

Application No.

10/060,234

Applicant(s)

GUERET, JEAN-LOUIS H.

Examiner

Huyen Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/27/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-9, 11-17, 22-46, 47-51, 60-67, 70-83, 85-91, 96-108, 110, 112-116, 118-121, 123, 132, 133, 135-141, 144-156, 158-164, 169-182, 184-192, 194, 203, 204, 206-212 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hitchcock, Jr. et al (4,519,795) in view of Gray (4,594,835).

Hitchcock, Jr. et al reference discloses a first portion 32 defining a recess; a second portion 12 movable with respect to the first portion 32, wherein the first portion 32 and the second portion 12 define a substantially closed reservoir when the device in a closed position; and an applicator member 14 attached to the second portion 12.

Although the Hitchcock, Jr. et al reference does not specifically disclose that when the device in a closed position, the application member is at least partially compressed inside the reservoir. Attention is directed to the Gray reference which teaches another application device comprising an application member 10 being compressed inside the reservoir 5 so that application member can take up all the product in the reservoir 5 when it expands to the uncompressed state upon withdrawal from the open reservoir 5 (see col. 2, lines 7-9).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to compress the application member in the reservoir of the Hitchcock, Jr. et al device in view of the teaching of the Gray reference for allowing the application member to take all product inside the reservoir when it expands to the uncompressed state upon withdrawal from the open reservoir.

Regarding claim 3, the application member 14 is attached to the second portion by bonding.

Regarding claim 4, the application member 14 comprises a compressible porous material.

Regarding claim 5, the application member 14 is made of at least one of an open-cell foam, a semi-open-cell foam, a felt, and a frit.

Regarding claim 6, the application member 14 is made from a material chosen from polyurethanes, polyesters, polyethers, polyvinyl chlorides, and ethylene vinyl acetates.

Regarding claim 7, the porous material is one of hydrophilic and lipophilic.

Regarding claims 22-28, the second portion 32 comprises a film sealed made of a layer of a thermoplastic material.

Regarding claim 29-35, the first and second portions 32, 12 each comprises a sheet.

Regarding claim 60-67, 121-141, a method for applying a product to a surface is inherently performed during the normal use of the device.

Response to Arguments

3. Applicant's arguments with respect to claims 1, 71 and 144 on 05/27/04 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL

August 20, 2004



GREGORY L. HUSON
SUPERVISORY PATENT EXAMINER
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